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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/625,396 | 07/23/2003 | Kevin Gerard Fraser | STAR-2 | 9095 |

7590

09/01/2005

Kevin G. Fraser
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| EXAMINER |
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KUHNS, ALLAN R

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| ART UNIT | PAPER NUMBER |
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1732

DATE MAILED: 09/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/625,396

Applicant(s)

FRASER, KEVIN GERARD

Examiner

Allan Kuhns

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) 10, 11, 17, 23, 25 and 26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 12-16, 18-22, 24 and 27-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

1.Applicant's election with traverse of claims 1-9, 11-16, 18-24 and 27-35 (only claims 1-33 are in the file before the examiner) in the reply filed on August 12, 2005 is acknowledged. The examiner considers claims 1-9, 12-16, 18-22, 24 and 27-33 as representing embodiments that corresponds to Figures 1-4. The traversal is on the ground(s) that each of the embodiments illustrated in figures 1-7 are merely exemplary embodiments of cellular cushions which may be fabricated by the injection molding process claimed and that a thorough search of any claim group would be relevant to the examination of the other group. This is not found persuasive because the claims recited in the non-elected group would require a search for structure not required in a search of the claims of the elected group.

The requirement is still deemed proper and is therefore made FINAL.

2.Claims 10, 11, 17, 23, 25 and 26 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on August 12, 2005.

3.Claims 1-9, 24 and 27-33 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. These claims are indefinite because "the base" in claim 1 lacks antecedent basis within the claims and "the sealing layer in claim 24 lacks antecedent basis within the claims. Clarification is required.

4.The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-9, 12-16, 18-22, 24 and 27-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pekar (5,638,565) in view of Evans (4,864,671). Pekar discloses or suggests the basic claimed formation of a cellular cushion structure including (1) forming a cushion first layer that includes a plurality of hollow cells that extend outward from a base and are each coupled together in flow communication, (2) coupling a second layer to the first layer, and (3) coupling an injection stem (note inflation means 24 illustrated in Figures 1 and 2) in flow communication to the plurality of hollow cells to enable an operating pressure within the cells to be changed. Pekar appears to be silent concerning the manner in which the hollow cells are formed, but Evans teaches, in a method of forming a cushion, the aspect of forming such cells by using an injection molding process. Note column 4, line 31. It would have been obvious to one of ordinary skill in the art to use an injection molding process, as taught by Evans, in the method of Pekar in order to facilitate the formation of cells.

Pekar teaches or suggests the formation of a plurality of hollow cells, as in claims 2 and 22, which can expand, as in claim 3, the incorporation of fluid control devices, as in claim 4, the inclusion of a third or outer layer, as in claims 5-7 and 29-31. The cushion of Pekar is capable of increasing pressure while in operation, in the manner of claims 32-33. Pekar also teaches the use of an inflation stem, as in claims 8, 15, 16 and 21 and the coupling of a sealing layer, as in claims 12-14, 18-20, 24 and 27. The


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examiner takes Official Notice that at least one of the bonding methods of claims 9 and 20 are known.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Allan Kuhns whose telephone number is (571) 272-1202. The examiner can normally be reached on Monday to Thursday from 7:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Colaianni, can be reached on (571) 272-1196. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


ALLAN R. KUHNS
PRIMARY EXAMINER AU 1732
8-30-05